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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,121	09/19/2005	Thomas S Riccobene	1825.70153	1215
24978	7590	07/13/2007		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER THOMAS, ALEXANDER S	
			ART UNIT 1772	PAPER NUMBER
			MAIL DATE 07/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,121

Applicant(s)

RICCOBENE, THOMAS S

Examiner

Alexander Thomas

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16, 17 and 24-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16, 17 and 24-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/21/07 & 9/19/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group III in the reply filed on 6/21/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 24-31 have been included in the elected Group III

Claim Rejections - 35 USC § 112

2. Claims 27 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original disclosure does not have support for the first, second and third angles being substantially equal and for the face comprising a surface variation mold therein.

3. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The meaning and scope of the phrase "surface variation mold therein" is not understood.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16, 17 and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson 5,267,810. The reference discloses a building unit or paver comprising a face 12 having first and second sides, said sides being rotational images of each other, and spacers 58 projecting from each side. However, the reference's paver does not include a plurality of spacers on each side, indicia on the spacers or sides that are not identical. It would have been obvious to one of ordinary skill in the art to provide additional spacers on the sides of the product in the reference to enhance the structural integrity of a plurality of pavers when set in place since a mere duplication of parts has no patentable significance unless new and unexpected results are produced. The examiner takes official notice of the fact that it is old in any art to provide indicia on a product for a variety of reasons, namely to label, decorate, to transmit information about the product, etc. Therefore, it would have been obvious to one of ordinary skill in the art to provide indicia on the spacer of the product in the reference in order to convey information about the product. Regarding claim 17, it would have been obvious to one of ordinary skill in the art to have the sides in the product of the reference vary slightly in structure depending on the desired decorative effect to be achieved since a change in size is generally recognized as being within the level of ordinary skill in the art.

6. Claims 16, 17 and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattox D439,677 in view of Johnson. The primary reference

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discloses a building unit or paver comprising a face having first and second sides wherein said sides are rotational images of each other. Johnson discloses the use of spacers on pavers to aid in their installation. It would have been obvious to one of ordinary skill in the art to provide the paver of the primary reference with a plurality of spacers on each side in view of the secondary reference to aid in spacing the pavers during installation. The examiner takes official notice of the fact that it is old in any art to provide indicia on a product for a variety of reasons, namely to label, decorate, to transmit information about the product, etc. Therefore, it would have been obvious to one of ordinary skill in the art to provide indicia on the spacer of the product in the primary reference in order to convey information about the product. Regarding claim 17, it would have been obvious to one of ordinary skill in the art to have the sides in the product of the primary reference vary slightly in structure depending on the desired decorative effect to be achieved since a slight change in size or shape is generally recognized as being within the level of ordinary skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Alexander S. Thomas". The signature is fluid and cursive, with the first name "Alexander" and last name "Thomas" clearly distinguishable.

ALEXANDER S. THOMAS
PRIMARY EXAMINER